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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,031	01/22/2001	Gholam-Reza Zadno-Azizi	PERCUS.071C1	2658

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EXAMINER

DAWSON, GLENN K

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/07/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/768,031

Applicant(s)

ZADNO-AZIZI, GHOLAM-REZA

Examiner

Glenn K Dawson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-38 and 43-50 is/are rejected.
- 7) ☒ Claim(s) 39-42 and 51-54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(f) he did not himself invent the subject matter sought to be patented.

Claims 29-31,34,36-38,43-46 and 48-50 are rejected under 35 U.S.C. 102(f)

because the applicant did not invent the claimed subject matter.

U.S. Patent No. 6,050,972 with a different inventive entity discloses the invention as claimed including an anchoring guidewire having an inflatable balloon and a valve which allows for the exchanging of various therapy catheters over the guidewire while keeping the balloon on the guidewire inflated. See col. 1 lines 27-62; col. 2 lines 10-45; col. 8 lines 51-52.

Claims 29-31,36-38,43-46 and 48-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Coelho-6251084.

Coelho discloses a guidewire having an inflatable balloon which can be held inflated by a proximal valve to allow for various therapy catheters to be completely withdrawn off the proximal end of the guidewire hub and another exchanged therefore. See col. Col. 3 line 50-col. 4 line 5; col. 5 line 25-col. 6 line 56; col. 7 lines 14-64.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 29-34, 36-38 and 43-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen, et al.-5167239 in view of Coelho-'084, and (Muni, et al.-6135991, Clement, et al.-5681336 or Imran-5833650).

Cohen discloses the invention as claimed including a guidewire having an anchoring balloon thereon with a proximal valve which maintains the balloon in an inflated state. In the background, it is stated that it would be desirable to be able to exchange catheters without causing movement of the guidewire. However, it is not specifically disclosed in the use of Cohen's device that two catheters are actually used with the guidewire. However Coelho discloses an anchoring guidewire for exchanging catheters. It would have been obvious to have used Cohen's guidewire to exchange catheters, as Coelho discloses such a use which would allow for the guidewire to stay in

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place in order to ensure proper placement of the 2nd catheter into the proper location for therapy. Muni, Clement and Imran all disclose the use of aspiration catheters during an atherectomy or angioplasty procedure. It would have been obvious to have exchanged an aspiration catheter over the anchored guidewire of Cohen, as it would allow for the removal of plaque debris caused by disruption by a cutter or angioplasty balloon.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen, et al.-5167239 in view of Coelho-'084, and (Muni, et al.-6135991, Clement, et al.-5681336 or Imran-5833650) and further in view of Sirimanne, et al.-5163911.

The combination of Cohen with Coelho, and Muni, Clement or Imran makes obvious the invention as claimed with the exception of the 2nd catheter having a larger balloon than the 1st catheter. Sirimanne discloses an angioplasty procedure wherein one catheter may be replaced with another one having a larger balloon-see col. 1 lines 60-65. It would have been obvious to have provided 2 catheters with different diameter balloons in order to provide an angioplasty system able to successfully dilate plaques of varying sizes in various diameter lumens.

Claims 32-34 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coelho-'084 in view of (Muni, et al.-6135991, Clement, et al.-5681336 or Imran-5833650).

Coelho discloses the invention as claimed with the exception of the specific exchanging of a therapy catheter with an aspiration catheter.

. Muni, Clement and Imran all disclose the use of aspiration catheters during an atherectomy or angioplasty procedure. It would have been obvious to have exchanged

an aspiration catheter over the anchored guidewire of Coelho, as it would allow for the removal of plaque debris caused by disruption by a cutter or angioplasty balloon.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coelho-'084 in view of (Muni, et al.-6135991, Clement, et al.-5681336 or Imran-5833650), and further in view of Sirimanne, et al.-5163911.

The combination of Coelho, and Muni, Clement or Imran makes obvious the invention as claimed with the exception of the 2nd catheter having a larger balloon than the 1st catheter. Sirimanne discloses an angioplasty procedure wherein one catheter may be replaced with another one having a larger balloon-see col. 1 lines 60-65. It would have been obvious to have provided 2 catheters with different diameter balloons in order to provide an angioplasty system able to successfully dilate plaques of varying sizes in various diameter lumens.

. Allowable Subject Matter

Claims 39-42 and 51-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn K Dawson whose telephone number is 703-308-4304. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on 703-308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Glenn K Dawson
Primary Examiner
Art Unit 3761

Gkd
29 April 2004